

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
3 - - -
4 CONSTELLATION : CIVIL ACTION
 NEWENERGY, INC. :
5 v. :
 POWERWEB TECHNOLOGIES, :
6 INC, A-VALEY :
 ENGINEERS, INC., and :
7 LOTHAR E.S. BUDIKE, JR.: NO. 02-CV-2733 (HB)
8 - - -

COPY

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VOLUME II

CONFIDENTIAL

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11 Continuing videotape deposition of
12 LOTHAR E.S. BUDIKE, JR, held in the
13 offices of Wolf, Block, Schorr &
14 Solis-Cohen, 1650 Arch Street,
15 Philadelphia, Pennsylvania 19103,
16 commencing at 10:00 a.m., on the above
17 date, before Amanda Dee Maslynsky-Miller,
18 a Certified Realtime Reporter and Notary
19 Public in and for the Commonwealth of
20 Pennsylvania.

21 - - -
22 ESQUIRE DEPOSITION SERVICES
23 1880 John F. Kennedy Boulevard
 15th Floor
24 Philadelphia, Pennsylvania 19103

1 Interactive, MV Web, Powerspring.

2 Q. At least as Silicon Energy
3 is concerned, all I can tell you is the
4 meta-data indicates to us that this was
5 written on October 9th, 2000. Maybe that
6 date's wrong, but that's what the
7 meta-data told us.

8 But whenever this document
9 was written, Silicon Energy was claiming
10 it had those features on Page 2, is
11 that -- is that what this is telling us?

12 MR. GARCIA: Objection. I
13 think you're asking him to
14 interpret a document that somebody
15 else created. And you're asking
16 him to assume that it was all --
17 all this information was put on
18 the document at the same time.

19 BY MR. LANDAU:

20 Q. Well, what does the
21 checkmark in the column labeled "Silicon
22 Energy" indicate to you?

23 A. Well, the checkmark is
24 defined above, and it says, "Offered but

1 with limitations on scope or content,"
2 which means to me that they're claiming
3 it, but there's no way to verify whether
4 the scope of it is operational or the
5 content is operational.

6 Q. And a double checkmark means
7 full service available?

8 A. If it's double checkmarked,
9 then it -- it means that it could be full
10 service available.

11 Again, we don't have access
12 to any of the -- this is what people are
13 telling us in the industry. We don't
14 have access to their software.

15 Q. Separate and apart from this
16 document, do you have any recollection of
17 being aware in the fall of 2000 that
18 Silicon Energy was -- had ability -- had
19 ability to monitor and trend realtime
20 energy use data?

21 A. Yes. For that particular
22 application, yes.

23 Q. When did you first become
24 aware that Silicon Energy had that

1 know whether Silicone had software that
2 did this back in 19 -- back in 2000?
3 Have you since learned anything?

4 A. I don't know. I don't know.
5 I mean, what I -- what I
6 know -- what I recollect as it pertains
7 to Silicon Energy is that they had no
8 software when I was interacting with
9 David Singer out of California. They
10 said that they were in contact with them,
11 they were talking about some conceptual
12 ideas of the software, but there was no
13 software that existed.

14 Because that was one of my
15 concerns. There was no concern on the
16 east coast for Silicon Energy. My
17 concern was giving the information over
18 to David Singer for the west coast
19 because that's where Silicon Energy was
20 developed out of, the PG&E territory.

21 So at the time when asked to
22 David Singer, he represented to me that
23 Silicon Energy had not had any software
24 or the applications developed.